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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,882	11/26/2003	Yun Yu Chuang	MR1115-490	6000

4586 7590 12/13/2005

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

EXAMINER

HWANG, VICTOR KENNY

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,882

Applicant(s)

CHUANG ET AL.

Examiner

Victor K. Hwang

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 20051208.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: “212” referred to in paragraphs [0018] and [0019]. Presumably, the reference character “212” should be inserted in the drawing of Fig. 2 to identify the hole in the retention ring diametrically opposite and coaxial to the hole 211. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:
in paragraph [0018, line 5, “212” presumably should be replaced with --211--; and
in paragraph [0023], line 8, the 2nd and 3rd occurrences of “61” presumably should be replaced with --62--.

Appropriate correction is required.

Claim Objections

3. Claim 7 is objected to because of the following informalities: on line 1, the recitation "1" presumably should be changed to --5--, in order to provide proper antecedent basis for the recitation of "the permanent magnet." Appropriate correction is required.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. **6,623,405** B2 in view of *Wood et al.* (US Pat. 6,761,611 B2). The patent discloses a wrist exerciser as claimed except for a transmission means comprising a transmitter mounted in the rotor and comprising an interface circuit connected to the control circuit and a connection member in connection with the interface circuit, and a transmission cable having opposite ends forming first and second connectors, the

first connector being releasably mateable with the connection member of the transmitter of the rotor and the second connector being adapted to connect an external device for transferring an electrical signal from the external device to the control circuit.

Wood et al. discloses a rotatably mounted ball 102 medium, such as a flash memory cartridge, a disk, a tape, or a memory stick (col. 6, lines 32-44). A linker device may also be used, such as a wireless transceiver or a data port (e.g., a Universal Serial Bus [USB] data port) to transfer code between the ball and a computer. The data port enables a user to transfer data to, and from, the interactive learning apparatus through a physical connection (e.g., a data cable) among the interactive learning apparatus and a client PC or the Internet (col. 6, lines 45-62). The transfer of data is used to provide code for new operating modes (col. 6, lines 41-44).

An operational data port on the ball would inherently include an interface circuit connected to the control circuit and a connection member in connection with the interface circuit. An operational data cable would also inherently have opposite ends forming first and second connectors, the first connector being releasably mateable with the connection member of the transmitter and the second connector being adapted to connect an external device for transferring an electrical signal from the external device to the control circuit. A USB data port would inherently require use of a USB cable having the proper USB connectors. An RS232 interface and connectors are considered to be equivalent to the USB cable and connectors, and an obvious choice for transmitting data. RS232 cables are commonly known as serial cables for connecting peripheral devices to a computer.

Note the ball is considered to be a rotor. A rotor as defined in Webster's Ninth New Collegiate Dictionary 1025 (1st. ed. 1990) (definition *n.* 1.) is "a part that revolves in a stationary part; esp: the rotating member of an electrical machine."

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rotor of the patent with the physical transmission means of *Wood et al.*, in order to provide a means for transferring data to provide new code to the control circuit for new operating modes.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mishler (US Pat. 5,150,625), *Mishler* (US Pat. 5,353,655), *Chuang* (US Pat. 5,800,311), *Yu* (US Pat. 6,039,679), *Williams* (US Pat. 6,413,144), *Yu* (US Pat. 6,527,675 B1), *Kuo* (US Pat. 6,770,012), *Leja* (US Pat. 6,816,137 B2), *Dworzan* (US Pat. Pub. 2005/0101454 A1), *Chuang et al.* (US Pat. Pub. 2005/0107218 A1) and *Clifford et al.* (US Pat. Pub. 2005/0206218 A1) disclose various apparatus having rotors with at least one illumination element mounted thereto.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

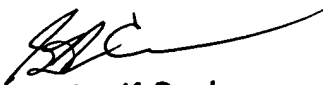
The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang
December 8, 2005



Stephen K. Cronin
Primary Examiner